



COUNCIL AGENDA: 00-00-00

ITEM: xx

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen Haase

SUBJECT: SEE BELOW

DATE: 10-00-02

Approved

Date

DRAFT POLICY ON THE USE OF FUNDS OBTAINED FOR THE UNLAWFUL DEMOLITION OR ALTERATION OF HISTORIC RESOURCES

RECOMMENDATION

The Historic Landmarks Commission recommends that the City Council adopt a Policy directing that settlement funds from the unpermitted demolition or alteration of historic resources be allocated to the Department of Planning, Building and Code Enforcement to be used for historic preservation.

BACKGROUND

Over the last six years there have been four known cases where historic buildings have been demolished or altered without, or in violation of, permits. In each of these cases, the City Attorney's office has worked successfully with the Department of Planning, Building and Code Enforcement (PBCE) to obtain remuneration from responsible parties for these violations. The historic preservation community and Historic Landmarks Commission have requested that these funds be targeted to the City of San Jose historic preservation program. Without a City Council policy on these funds, the potential allocation of funds received is decided by the City Manager's Office on a case-by-case basis. The four cases where settlement funds were received are:

1. Fredkins Market (1998) - resulted in a settlement fine of \$90,000. Community and Landmarks Commission members at the time drafted a proposal for the use of the funds. However, the money was not earmarked for historic preservation purposes and was booked as Departmental Revenue in the Attorney's Office and became part of the General Fund fund balance.
2. Raggio House (2000)-resulted in a settlement fine of \$100,000 which is in the 2002-2003 Planning, Building and Code Enforcement Department budget for historic preservation.
3. Italian Gardens (2001)-resulted in among other measures, a settlement fine of \$75,000 which was requested for the historic preservation program. A recommendation that these funds be budgeted to the Department is included in the **2001-02 Annual Report memo to the City Council**.

4. 274 S 15th Street (2002)-resulted in a settlement fine of \$12,000. PBCE will request that these funds be appropriated to the Department for historic preservation at mid-year.

ANALYSIS

The City of San Jose has a finite number of historic resources. The Landmarks Commission believes that the use of funds received by the City as remuneration from responsible parties for the unlawful demolition or alteration of historic resources is a logical and cost effective way to help fund the historic preservation program. This draft policy is intended to ensure the allocation of these funds to the historic preservation program within the Department of Planning, Building and Code Enforcement. The Landmarks Commission recommends that remuneration funds received by the City from parties responsible for the illegal demolition or from other unpermitted actions that harm historic resources should be used to enhance and support the preservation of the City's remaining historic resources.

The Landmarks Commission proposes that the uses to which the funds would be applied include: conducting historic resource surveys, the improvement and expansion of the historic resources database, drafting of design guidelines and Commission and community historic preservation training.

PUBLIC OUTREACH

The Historic Landmarks Commission discussed this proposal and took public comments on it at the August and September meetings.

COORDINATION

This memo has been coordinated with the City Attorney's office.

STEPHEN M. HAASE, DIRECTOR
Planning, Building and Code Enforcement
Secretary to the Historic Landmarks Commission

Attachment: Draft Council Policy

Pbce002/historic/9-4-02 draft HLC settlement memo CC

